

1 Adopt 17 Cal. Code of Regs. section 100408 to read:

2 **§ 100408. Revenue Sharing.**

3 (a) A Grantee must share with the State of California a fraction of any Net Licensing
4 Revenue it receives under a License Agreement for a CIRM-funded Patented Invention as
5 follows:

6 (1) Subject to subdivision (a)(2) of this regulation, a Grantee must pay 25 percent of Net
7 Licensing Revenue in excess of \$500,000 to the State of California for deposit into the State's
8 General Fund. The threshold amount of \$500,000 (in the aggregate) shall be adjusted annually
9 by a multiple of a fraction, the denominator of which is the Consumer Price Index, All Urban
10 Consumers, All Items (San Francisco-Oakland-San Jose; 1982-84=100) as prepared by the
11 Bureau of Labor Statistics of the United States Department of Labor and published for the month
12 of December 2007, and the numerator of which is such Index published for the month in which
13 the Grantee accepts the Grant.

14 (2) If funding sources other than CIRM (including those of the Grantee) contributed to
15 the development of a CIRM-funded Patented Invention, then the return to the State of California
16 on Net Licensing Revenue in excess of the threshold amount described in subdivision (a)(1) of
17 this regulation shall be proportionate to the support provided by CIRM, as follows: The amount
18 of CIRM funding of the patented invention shall be divided by the total of funding provided by
19 all sources, and that fraction shall be multiplied by 25. That numeral is the percentage due to the
20 State of California of Net Licensing Revenue.

21 (b) A Grantee must share with the State of California a fraction of any Net Commercial
22 Revenue it receives from a self-commercialized product resulting from its CIRM-funded
23 Research (regardless of whether a CIRM-funded Patented Invention is involved) as follows:

1 (1) A Grantee must pay royalties to the State of California for deposit into the State's
2 General Fund on Net Commercial Revenue exceeding the threshold amount described in
3 subdivision (a)(1) of this regulation. Total payments under this subdivision (b)(1) shall not
4 exceed three times the total amount of the CIRM Grant or Grants. The precise rate of payback in
5 the form of a royalty shall be negotiated between the Grantee and CIRM, but in no event shall be
6 less than two (2) percent nor more than five (5) percent of the annual Net Commercial Revenue
7 from the invention, unless the product achieves blockbuster status, as provided in subdivisions
8 (b)(2) and (b)(3) below.

9 (2) If Net Commercial Revenue exceeds the milestone of \$250 million per year from a
10 self-commercialized CIRM-funded Patented Invention, and then if Net Commercial Revenue
11 exceeds the milestone of \$500 million per year from a self-commercialized CIRM-funded
12 Patented Invention, then upon the first occurrence of each of these milestones the Grantee will
13 pay to the State of California a one-time blockbuster payment of three times the total amount of
14 the Grant.

15 (3) In addition to any amounts due under any other provision of this regulation, where a
16 CIRM-funded Patented Invention(s) is involved in the achievement of Net Commercial Revenue
17 realized by Grantee equivalent to or greater than \$500 million in any year, and where CIRM
18 Grants amounting to more than \$5 million (in the aggregate) were made in support of CIRM-
19 funded Research that contributed to the creation of Net Commercial Revenue, the Grantee will
20 pay the State of California one percent of Net Commercial Revenue in excess of \$500 million for
21 the life of the patent.

22 Note: Authority cited: Article XXXV, California Constitution; Section 125290.40(j), Health and
23 Safety Code. Reference: Section 125290.30, Health and Safety Code.